

DOUUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL RAPAPORT and MICHAEL	:	
DAVID PRODUCTIONS, INC.,	:	Case No. 1:18-CV-08783
	:	
Plaintiffs,	:	DECLARATION OF AARON J. MOSS
	:	IN SUPPORT OF DEFENDANTS'
-against-	:	MOTION FOR PARTIAL SUMMARY
	:	JUDGMENT AND OPPOSITION TO
BARSTOOL SPORTS, INC., ADAM SMITH,	:	PLAINTIFFS' MOTION FOR
KEVIN CLANCY, ERIC NATHAN and	:	SUMMARY JUDGMENT OR IN THE
DAVID PORTNOY,	:	ALTERNATIVE, SUMMARY
	:	ADJUDICATION
Defendants.	:	
	:	
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BARSTOOL SPORTS, INC., ADAM SMITH,	:	
KEVIN CLANCY, ERIC NATHAN and	:	
DAVID PORTNOY,	:	
	:	
Counterclaim Plaintiffs,	:	
	:	
-against-	:	
	:	
MICHAEL RAPAPORT and MICHAEL	:	
DAVID PRODUCTIONS, INC.	:	
	:	
Counterclaim Defendants.	:	
	:	
	:	
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DECLARATION OF AARON J. MOSS

I, Aaron J. Moss, declare:

1. I am an attorney duly licensed to practice in all of the courts of the State of California (and *pro hac vice* in the Southern District of New York) and am a Partner of Greenberg Glusker Fields Claman & Machtinger LLP, attorneys of record for Defendant and Counterclaimant Barstool Sports, Inc. (“Barstool”) and Defendants Adam Smith, Kevin Clancy, Eric Nathan and David Portnoy (collectively, “Defendants”) herein. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently to those facts under oath.

2. A true and correct copy of a forensic capture of the home page for the “I AM RAPAPORT: STEREO PODCAST,” which was marked as Exhibit 1 at the Deposition of Michael Rapaport (“Rapaport Deposition”) (and identified and authenticated by plaintiff Michael Rapaport (“Rapaport”)), is attached as **Exhibit 83**. *See* Exhibit 177 (Rapaport Depo., 22:6-23:23) (authenticating deposition exhibit).

3. A true and correct copy of a photo of Rapaport posted by Getty Images on April 24, 2015, which was marked as Exhibit 10 at the Rapaport Deposition (and identified and authenticated by Rapaport) is attached as **Exhibit 84**. *See* Exhibit 177 (Rapaport Depo., 106:2-16) (authenticating deposition exhibit).

4. A true and correct copy of a blog dated October 15, 2018 that Adam Smith (“Smith”) posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP023747-RAP023756, is attached as **Exhibit 85**.

5. A true and correct copy of a thread on Twitter containing Tweets by Rapaport, which was marked as Exhibit 6 at the Rapaport Deposition (and identified and authenticated by Rapaport), is attached as **Exhibit 86**. *See* Exhibit 177 (Rapaport Depo., 58:24-59:17) (authenticating deposition exhibit). A clearer version of this document is attached as Exhibit 40 to the declaration of JoAnna Blythe filed concurrently herewith. Among the Tweets in Exhibit

86 is Rapaport's comment that "Ria [a then-19 year old Barstool employee] got this Pipe."

6. A true and correct copy of an email from David Portnoy ("Portnoy") to Rapaport dated October 20, 2016, which was produced by Barstool during discovery and bates numbered BARSTOOL000162, is attached as **Exhibit 87**.

7. A true and correct copy of an email from Rapaport to CBS on May 17, 2018 attaching a signed copy of the parties' Term Sheet, which was produced by Rapaport during discovery and bates numbered RAP002022-RAP002024, is attached as **Exhibit 88**.

8. A true and correct copy of an email sent from Jordan Winter ("Winter") to Erika Nardini ("Nardini") on May 2, 2017, which was marked as Exhibit 20 at the Rapaport Deposition (and identified and authenticated by Rapaport), and bates numbered RAP001941-RAP001942, is attached as **Exhibit 89**. *See* Exhibit 177 (Rapaport Depo., 209:23-211:12) (authenticating deposition exhibit).

9. A true and correct copy of an email sent from Nardini to Winter and Miles Davis ("Davis") on May 9, 2017, which was marked as Exhibit 33 at the September 6, 2019 deposition of Winter (the "Winter Deposition") (and identified and authenticated by Winter), and is bates numbered RAP001952-RAP001954, is attached as **Exhibit 90**. *See* Exhibit 178 (Winter Depo., 99:15-100:6) (authenticating deposition exhibit).

10. A true and correct copy of an email sent from CBS to Rapaport on May 19, 2017, which was produced by Rapaport during discovery and bates numbered RAP002035-RAP002039, is attached as **Exhibit 91**.

11. A true and correct copy of an email sent from Nardini to Brett Merriman ("Merriman") on May 25, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000855-BARSTOOL000863, is attached as **Exhibit 92**.

12. A true and correct copy of an email sent by Merriman to Nardini on May 31, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL001021-BARSTOOL001029, is attached as **Exhibit 93**.

13. A true and correct copy of the parties' fully executed Talent Agreement, bates

numbered RAP002314-RAP02321, which was marked as Exhibit 4 at the September 13, 2019 deposition of Nardini (the “Nardini Deposition”) (and identified and authenticated by Nardini), is attached as **Exhibit 94**. *See* Exhibit 185 (Nardini Depo., 88:21-89:18) (authenticating exhibit).

14. A true and correct copy of an email sent from Portnoy to Rapaport on December 7, 2016, which was produced by Barstool during discovery and bates numbered BARSTOOL000258-BARSTOOL000266, is attached as **Exhibit 95**.

15. A true and correct copy of an email sent from Portnoy to Nardini on February 9, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000293-BARSTOOL000302, is attached as **Exhibit 96**.

16. A true and correct copy of an email sent from Nardini to Rapaport on April 12, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000514-BARSTOOL000522, is attached as **Exhibit 97**.

17. A true and correct copy of an email sent from Rapaport to Davis and Winter on April 20, 2017, which was produced by Rapaport during discovery and bates numbered RAP015899-RAP015911, is attached as **Exhibit 98**.

18. A true and correct copy of an email sent from Nardini to Rapaport on April 25, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000568-BARSTOOL000590, is attached as **Exhibit 99**.

19. A true and correct copy of an email sent from Nardini to Winter, Rapaport and Davis on April 26, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000638-BARSTOOL000660, is attached as **Exhibit 100**.

20. A true and correct copy of texts between Davis and Nardini, which was produced by Rapaport during discovery and bates numbered RAP023327, is attached as **Exhibit 101**.

21. A true and correct copy of texts between Davis and Nardini, which was produced by Rapaport during discovery and bates numbered RAP023331-RAP023332, is attached as **Exhibit 102**.

22. A true and correct copy of an email sent from Winter to Rapaport on April 25,

2017, which was produced by Rapaport during discovery and bates numbered RAP017995-RAP017997, is attached as **Exhibit 103**.

23. A true and correct copy of an email sent from Winter to Nardini on April 25, 2017, which was produced by Rapaport during discovery and bates numbered RAP015867-RAP015870, is attached as **Exhibit 104**.

24. A true and correct of copy of a blog dated November 17, 2017 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023627-RAP023648, is attached as **Exhibit 105**.

25. A true and correct copy of a blog dated February 14, 2018 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023655-RAP023664, is attached as **Exhibit 106**.

26. A true and correct copy of a capture of Rapaport's February 17, 2018 Tweet "if you call yourself a fucking stoolie for real, you've already lost in life," which was marked as Exhibit 24 at the Rapaport Deposition (and identified and authenticated by Rapaport), is attached as **Exhibit 107**. *See* Exhibit 177 (Rapaport Depo., 251:23-252:11) (authenticating this exhibit).

27. A true and correct copy of a text message exchange between Portnoy and Rapaport, which was marked as Exhibit 25 at the Rapaport Deposition (and identified and authenticated by Rapaport), and which is bates numbered RAP023100-RAP023101, is attached as **Exhibit 108**. *See* Exhibit 177 (Rapaport Depo., 262:23-263:12) (authenticating this exhibit).

28. A true and correct copy of an email sent from Sirius to Nardini on April 5, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000464-BARSTOOL000465, is attached as **Exhibit 109**.

29. A true and correct copy of an email sent from Nardini to Matthew Resnick on September 14, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL007421-BARSTOOL007431, is attached as **Exhibit 110**.

30. A true and correct copy of an email sent from Jesse Saivar ("Saivar") to Sirius on October 3, 2017, which was produced by Barstool during discovery and bates numbered

BARSTOOL007543-BARSTOOL007556, is attached as **Exhibit 111**.

31. A true and correct copy of an email from Jay Danahy to Nardini on June 27, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL006563-BARSTOOL006564, is attached as **Exhibit 112**.

32. A true and correct copy of an email sent from Nardini to The Chernin Group and Portnoy on June 6, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL001093-BARSTOOL001099, is attached as **Exhibit 113**.

33. A true and correct copy of an email sent from Sirius to Nardini on August 15, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL007238-BARSTOOL007239, is attached as **Exhibit 114**.

34. A true and correct copy of an email sent from Saivar to Sirius and Nardini on October 31, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL008157-BARSTOOL008184, is attached as **Exhibit 115**.

35. A true and correct copy of an email sent from Nardini to Portnoy on November 17, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL008241-BARSTOOL008242, is attached as **Exhibit 116**.

36. A true and correct copy of an email sent from Nardini to Portnoy on November 18, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL008259-BARSTOOL008260, is attached as **Exhibit 117**.

37. A true and correct copy of a text from Nardini to Rapaport, which was produced by Rapaport during discovery and bates numbered RAP023113, is attached as **Exhibit 118**.

38. A true and correct copy of an email sent from Nardini to Rapaport on December 13, 2017, which was produced by Rapaport during discovery and bates numbered RAP009727-RAP009729, is attached as **Exhibit 119**.

39. A true and correct copy of a text message exchange between Nardini and Rapaport on December 19, 2017, which was produced by Rapaport during discovery and bates numbered RAP023115, is attached as **Exhibit 120**.

40. A true and correct copy of a text message exchange between Nardini and Rapaport on January 5, 2018, which was produced by Rapaport during discovery and bates numbered RAP023116, is attached as **Exhibit 121**.

41. A true and correct copy of an email sent from Winter to Nardini on January 15, 2018, which was produced by Rapaport during discovery and bates numbered RAP010942-RAP010944, is attached as **Exhibit 122**.

42. A true and correct copy of an email sent from Nardini to Rapaport on April 23, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000556, is attached as **Exhibit 123**.

43. A true and correct copy of an email sent from Sirius to Nardini on March 6, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL000372-BARSTOOL000373, is attached as **Exhibit 124**.

44. A true and correct copy of an email sent from Nardini to Sirius on April 5, 2017, which was produced by Barstool during discovery and bates numbered on BARSTOOL000462-BARSTOOL463, is attached as **Exhibit 125**.

45. A true and correct copy of an email sent from Sirius to Nardini on July 18, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL002246, is attached as **Exhibit 126**.

46. On February 24, 2020, Plaintiffs' counsel provided our law firm with an Excel spreadsheet file containing an updated list of statements that Plaintiffs assert are defamatory. Plaintiffs' counsel has represented that Plaintiffs only are asserting that the statements in the spreadsheet that are highlighted in yellow are defamatory. A true and correct copy of this Excel spreadsheet file, which has been converted to a PDF, is attached as **Exhibit 127**.

47. A true and correct copy of a September 10, 2017 Tweet by Rapaport, which was produced by him during discovery and bates numbered RAP022662 is attached as **Exhibit 128**.

48. A true and correct copy of a November 19, 2017 Tweet by Rapaport, which was produced by him during discovery and bates numbered RAP023708, is attached as **Exhibit 129**.

49. A true and correct copy of a November 22, 2017 Tweet by Rapaport, which was produced by him during discovery and bates numbered RAP023709, is attached as **Exhibit 130**.

50. A true and correct copy of a blog dated December 19, 2018 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023167-RAP023173, is attached as **Exhibit 131**.

51. A true and correct copy of a blog dated February 6, 2018 that Francis Ellis posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP022530-RAP022540, is attached as **Exhibit 132**.

52. A true and correct copy of a February 14, 2018 Tweet thread by Smith, which was produced by Rapaport during discovery and bates numbered RAP023706, is attached as **Exhibit 133**.

53. A true and correct copy of a February 14, 2018 Tweet by Rapaport, which was produced by Rapaport during discovery and bates numbered RAP023710, is attached as **Exhibit 134**.

54. A true and correct copy of a February 17, 2018 Tweet by Rapaport, which was produced by Rapaport during discovery and bates numbered RAP023744, is attached as **Exhibit 135**.

55. A true and correct copy of a February 18, 2018 Tweet by Smith, which was produced by Rapaport during discovery and bates numbered RAP023707, is attached as **Exhibit 136**.

56. A true and correct copy of a February 18, 2018 Tweet by Smith, which was produced by Rapaport during discovery and bates numbered RAP022666, is attached as **Exhibit 137**.

57. A true and correct copy of a blog dated February 18, 2018 that Kevin Clancy ("Clancy") posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP022886-RAP022902, is attached as **Exhibit 138**.

58. A true and correct copy of a February 18, 2018 Tweet by Portnoy, which was

produced by Rapaport during discovery and bates numbered RAP023743, is attached as **Exhibit 139**.

59. A true and correct copy of an email from Brandon Reilly (“Reilly”) to Keith Markovich (“Markovich”) dated February 19, 2018, which was produced by Barstool during discovery and bates numbered BARSTOOL008941-BARSTOOL008943, is attached as **Exhibit 140**.

60. A true and correct copy of a blog dated February 19, 2018 that Eric Nathan (“Nathan”) posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP022973-RAP022981, is attached as **Exhibit 141**.

61. A true and correct copy of an email from Reilly to Markovich dated February 20, 2018, which was produced by Barstool during discovery and bates numbered BARSTOOL008978-BARSTOOL008980, is attached as **Exhibit 142**.

62. A true and correct copy of a blog dated February 20, 2018 that Portnoy posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP023699-RAP023705, is attached as **Exhibit 143**.

63. A true and correct copy of a blog dated February 20, 2018 that a Barstool employee named “Young Pageviews” posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP022677, is attached as **Exhibit 144**.

64. A true and correct copy of a blog dated February 20, 2018 that Smith posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP022771-RAP022777, is attached as **Exhibit 145**.

65. A true and correct copy of a photo that “dr.hiphop” posted to Instagram, which was produced by Rapaport during discovery and bates numbered RAP022668, is attached as **Exhibit 146**.

66. A true and correct copy of a Tweet by Pat McAfee, which was produced by Rapaport during discovery and bates numbered RAP022676, is attached as **Exhibit 147**.

67. A true and correct copy of a February 25, 2018 Tweet by Clancy, which was

produced by Rapaport during discovery and bates numbered RAP023717, is attached as **Exhibit 148**.

68. A true and correct copy of blog dated February 26, 2018 that Jared Carrabis posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023072-RAP023079 is attached as **Exhibit 149**.

69. A true and correct copy of a blog dated February 27, 2018 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP022909-RAP022920, is attached as **Exhibit 150**.

70. A true and correct copy of an email from Reilly to Markovich dated March 2, 2018, which was produced by Barstool during discovery and bates numbered BARSTOOL009114-BARSTOOL009115, is attached as **Exhibit 151**.

71. A true and correct copy of a blog dated June 23, 2018 that Nathan posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023665-RAP023672, is attached as **Exhibit 152**.

72. A true and correct copy of a blog dated October 16, 2018 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP022397-RAP022404, is attached as **Exhibit 153**.

73. A true and correct copy of a blog dated December 31, 2018 that Smith posted to Barstool's website, which was produced by Rapaport during discovery and bates numbered RAP023718-RAP023729, is attached as **Exhibit 154**.

74. A true and correct copy of Tweets from a Twitter account titled "Michael Rapaport's Herpes," which was produced by Rapaport during discovery and bates numbered RAP023037-RAP023043, is attached as **Exhibit 155**.

75. A true and correct copy of Tweets from a Twitter account titled "Michael Rapaport stalked Lilli Taylor," which was produced by Rapaport during discovery and bates numbered RAP023006-RAP023012, is attached as **Exhibit 156**.

76. A true and correct copy of Defendants' Objections to Notice of Deposition of

Barstool Sports, Inc., which was served on Plaintiffs' counsel on September 11, 2019, is attached as **Exhibit 157**.

77. A true and correct copy of a blog dated June 28, 2019 that Samer Kalaf posted to the website www.deadspin.com, which was produced by Rapaport during discovery and bates numbered RAP022477-RAP022482, is attached as **Exhibit 158**.

78. A true and correct copy of an "Affiliate Agreement" between DraftKings, Inc. and Barstool with an effective date of August 8, 2017, which was produced by Barstool during discovery and bates numbered BARSTOOL009394-BARSTOOL009403, is attached as **Exhibit 159**.

79. A true and correct of a document labeled "Barstool Sports – IO" and dated January 9, 2018, which was produced by Barstool during discovery and bates numbered BARSTOOL009420-BARSTOOL009422, is attached as **Exhibit 160**.

80. A true and correct of an email from Brian McCloud to Matt Palmer dated October 22, 2019, which was produced by Barstool during discovery and bates numbered BARSTOOL009452-BARSTOOL009474, is attached as **Exhibit 161**.

81. A true and correct copy of the Expert Report of Jeffrey Hancock, dated November 11, 2019, which was marked as Exhibit 550 at the Hancock Deposition (and identified and authenticated by Hancock) is attached as **Exhibit 162**. *See* Exhibit 163 (Hancock Depo., 14:21-15:4, 54:2-14, 58:9-59:1, 84:10-20, 141:17-142:11) (authenticating and discussing this exhibit).

82. On January 16, 2020, I attended Jeffrey Hancock's deposition in this action. A transcript of Hancock's deposition (the "Hancock Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 163** are true and correct copies of excerpts of the Hancock Deposition transcript.

83. A true and correct copy of the first page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 507 at the January 10, 2020 deposition of Eric Rose (and was identified and authenticated by Rose), is attached as **Exhibit**

164. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing this exhibit).

84. A true and correct copy of the second page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 508 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 165**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

85. A true and correct copy of the third page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 509 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 166**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

86. A true and correct copy of the fourth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 510 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 167**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

87. A true and correct copy of the fifth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 511 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 168**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

88. A true and correct copy of the sixth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 512 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 169**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

89. A true and correct copy of the seventh page of a Google search for Michael

Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 513 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 170**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

90. A true and correct copy of the eighth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 514 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 171**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

91. A true and correct copy of the ninth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 515 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 172**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

92. A true and correct copy of the tenth page of a Google search for Michael Rapaport, which my colleague, Steven Stein, searched for using Incognito mode on January 9, 2020, and printed out under my supervision, which was marked as Exhibit 516 at the Rose Deposition (and was identified and authenticated by Rose) is attached as **Exhibit 173**. *See* Exhibit 174 (Rose Depo., 173:4-180:12) (authenticating and discussing deposition exhibit).

93. On January 16, 2020, I attended the deposition of Plaintiffs' expert, Eric Rose, in this action. A transcript of Rose's deposition (the "Rose Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 174** are true and correct copies of excerpts from the Rose Deposition transcript.

94. On January 20, 2020, I attended the deposition of Daniel Durbin in this action. A transcript of Durbin's deposition (the "Durbin Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 175** are true and correct copies of excerpts from the Durbin Deposition transcript.

95. On January 21, 2020, I attended the deposition of Steven Cheah in this action. A transcript of Cheah's deposition (the "Cheah Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 176** are true and correct copies of excerpts from the Cheah Deposition transcript.

96. On September 5, 2019, I deposed Michael Rapaport in this action. A transcript of Rapaport's deposition (the "Rapaport Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 177** are true and correct copies of excerpts from the Rapaport Deposition transcript.

97. On September 6, 2019, I attended the deposition of Jordan Winter in this action. A transcript of Winter's deposition (the "Winter Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 178** are true and correct copies of excerpts from the Winter Deposition transcript.

98. On September 6, 2019, I attended the deposition of Miles Davis in this action. A transcript of Davis' deposition (the "Davis Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 179** are true and correct copies of excerpts from the Davis Deposition transcript.

99. On September 9, 2019, I attended the deposition of Eric Nathan in this action. A transcript of Nathan's deposition (the "Nathan Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 180** are true and correct copies of excerpts from the Nathan Deposition transcript.

100. On September 10, 2019, I attended the deposition of Kevin Clancy in this action. A transcript of Clancy's deposition (the "Clancy Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 181** are true and correct copies of excerpts from the Clancy Deposition transcript.

101. On September 10, 2019, I attended the deposition of Keith Markovich in this action. A transcript of Markovich's deposition (the "Markovich Deposition") has been prepared

and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 182** are true and correct copies of excerpts from the Markovich Deposition transcript.

102. On September 11, 2019, I attended the deposition of Adam Smith in this action. A transcript of Smith's deposition (the "Smith Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 183** are true and correct copies of excerpts from the Smith Deposition transcript.

103. On September 12, 2019, I attended the deposition of David Portnoy in this action. A transcript of Portnoy's deposition (the "Portnoy Deposition") has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 184** are true and correct copies of excerpts from the Portnoy Deposition transcript.

104. On September 13, 2019, I attended the deposition of Erika Nardini in this action. A transcript of the Nardini Deposition has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 185** are true and correct copies of excerpts from the Nardini Deposition transcript.

105. A September 12, 2017 video, which was produced by Rapaport during discovery and bates numbered RAP023515, is being identified as **Exhibit 186**, and will be provided to the Court via a flash drive.

106. A February 18, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023715, is being identified as **Exhibit 187**, and will be provided to the Court via a flash drive.

107. A February 19, 2018 video titled "Professor Nate Breaks Down the Michael Rapaport Sage," which was produced by Rapaport during discovery and bates numbered RAP023504, is being identified as **Exhibit 188**, and will be provided to the Court via a flash drive.

108. A February 19, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023502, is being identified as **Exhibit 189**, and will be provided to the Court via a flash drive.

109. A February 20, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023506, is being identified as **Exhibit 190**, and will be provided to the Court via a flash drive.

110. A February 23, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023516, is being identified as **Exhibit 191**, and will be provided to the Court via a flash drive.

111. The February 26, 2018 “diss track” video Barstool posted to its website, which was produced by Rapaport during discovery and bates numbered RAP023509, is being identified as **Exhibit 192**, and will be provided to the Court via a flash drive.

112. A March 2, 2018 video titled “It’s Time To Put Up Or Shut Up Rapaport,” which was produced by Rapaport during discovery and bates numbered RAP023510, is being identified as **Exhibit 193**, and will be provided to the Court via a flash drive.

113. A March 2, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023525, is being identified as **Exhibit 194**, and will be provided to the Court via a flash drive.

114. A September 25, 2018 audio file, which was produced by Rapaport during discovery and bates numbered RAP023518, is being identified as **Exhibit 195**, and will be provided to the Court via a flash drive.

115. A September 25, 2018 audio file, which was produced by Rapaport during discovery and bates numbered RAP023519, is being identified as **Exhibit 196**, and will be provided to the Court via a flash drive.

116. A September 27, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023513, is being identified as **Exhibit 197**, and will be provided to the Court via a flash drive.

117. A September 27, 2018 video, which was produced by Rapaport during discovery and bates numbered RAP023512, is being identified as **Exhibit 198**, and will be provided to the Court via a flash drive.

118. An undated, “post-termination” audio file, which was produced by Rapaport during discovery and bates numbered RAP023716, is being identified as **Exhibit 199**, and will be provided to the Court via a flash drive.

119. An undated, “post-termination” video, which was produced by Rapaport during discovery and bates numbered RAP023530, is being identified as **Exhibit 200**, and will be provided to the Court via a flash drive.

120. An undated, “post-termination” video, which was produced by Rapaport during discovery and bates numbered RAP023528, is being identified as **Exhibit 201**, and will be provided to the Court via a flash drive.

121. Attached hereto as **Exhibit 202** is a true and correct copy of a February 21, 2018 Tweet by Michael Rapaport, located at the URL <https://twitter.com/MichaelRapaport/status/966435637686558720>, which my colleague, Steven Stein, captured on April 5, 2020 under my supervision.

122. On January 27, 2020, I attended the deposition of Aaron Curtiss (“Curtiss”) in this matter. A transcript of Curtiss’ deposition (the “Curtiss Deposition”) has been prepared and provided to my office by the court reporter who transcribed the deposition. Attached hereto as **Exhibit 203** are true and correct copies of excerpts from the Curtiss Deposition transcript.

123. A true and correct copy of a blog dated February 19, 2018 that Smith posted to Barstool’s website, which was produced by Rapaport during discovery and bates numbered RAP023649-RAP023654, is attached as **Exhibit 204**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of April, 2020 at Los Angeles, California.

By: 
Aaron J. Moss